IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

NTP, INC.,	)	
	)	
Plaintiff,	)	
	)	**Civil Action No.:** 3:07CV549
v.	)	
	)	**Jury Trial Demanded**
CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS,	)	
	)	
	)	
Defendant.		

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff NTP, Inc. ("NTP" or "Plaintiff"), by and through its attorneys, hereby demands a jury trial and complains of Defendant, Cellco Partnership d/b/a Verizon Wireless ("Verizon" or "Defendant"), as follows:

A. Nature of the Action

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.*, to enjoin infringement and obtain damages resulting from Defendant's unauthorized manufacture, use, sale, offer for sale and/or importation into the United States for subsequent use or sale of products, methods, processes, services and/or systems that infringe one or more claims of United States Patent No. 5,436,960 (the "'960 Patent") (attached as Exhibit A) entitled "Electronic Mail System With RF Communications to Mobile Processors and Method of Operation Thereof;" United States Patent No. 5,438,611 (the "'611 Patent") (attached as Exhibit B) entitled "Electronic Mail System With RF Communications to Mobile Processors Originating From Outside of the Electronic Mail System and Method of Operation Thereof;" United States Patent No. 5,625,670 (the "'670 Patent") (attached as Exhibit

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C) entitled "Electronic Mail System With RF Communications to Mobile Processors;" United States Patent No. 5,819,172 (the "'172 Patent") (attached as Exhibit D) entitled "Electronic Mail System With RF Communications to Mobile Radios;" United States Patent No. 6,067,451 (the "'451 Patent") (attached as Exhibit E) entitled "Electronic Mail System With RF Communications to Mobile Processors;" United States Patent No. 6,317,592 (the "'592 Patent") (attached as Exhibit F) entitled "Electronic Mail System With RF Communications to Mobile Processors;" U.S. Patent No. 5,479,472 (the "'472 Patent") (attached as Exhibit G) entitled "System for Interconnecting Electronic Mail Systems by RF Communications and Method of Operation Thereof;" and U.S. Patent No. 5,631,946 (the "'946 Patent") (attached as Exhibit H) entitled System for Transferring Information From a RF Receiver To a Processor Under Control of a Program Stored by the Processor and Method of Operation Thereof." Plaintiff seeks injunctive relief to prevent Defendant from continuing to infringe Plaintiff's patents directly and indirectly. In addition, Plaintiff seeks the recovery of monetary damages resulting from Defendant's past direct and indirect infringement of these patents.

2. This action for patent infringement involves Defendant's manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in electronic mail systems with RF communications to mobile processors and related services, and methods, including, but not limited to, products and services marketed by Verizon as handheld devices, organizers, Personal Digital Assistants (PDAs), cell phones, and smartphones, together with related software applications and wireless data services, and as a wireless service provider that utilizes a RF information transmission network to provide service for products manufactured by other entities.

B. The Parties

3. Plaintiff NTP is a Virginia corporation.

4. Plaintiff NTP is the lawful assignee of all right, title and interest in and to the '960, '611, '670, '172, '451, '592, '472 and '946 Patents (collectively, the "Patents-in-Suit").

5. Upon information and belief, defendant Verizon is a company organized and existing under the laws of the State of Delaware, with its principal place of business at One Verizon Way, Basking Ridge, New Jersey 07920. Verizon uses, sells, and/or offers for sale certain handheld devices, organizers, Personal Digital Assistants (PDAs), cell phones, and smartphones, together with related software applications and wireless data services, including without limitation those referred to as the Palm "Treo" series of smartphones, organizers, handheld devices and related software applications, the Motorola Q™ Black and related software applications, the Verizon Wireless smartphones and related software applications, and wireless data service offerings: PDA/Smartphone America's Choice® Email and PDA/Smartphone America's Choice® Email & Messaging.

C. Jurisdiction and Venue

6. This Court has jurisdiction over the subject matter of this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Defendant is subject to personal jurisdiction in the Commonwealth of Virginia because it regularly transacts business in this judicial district and division by, among other things, offering its products and services to customers, business affiliates and partners located in this judicial district and division. In addition, Defendant has committed acts of direct infringement, contributory infringement, and/or inducement of infringement of one or more of the claims of one or more of the Patents-in-Suit in this judicial district and division.

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because NTP resides in the Richmond Division and no real property is involved in the action, and because the Defendant is subject to personal jurisdiction in this district, has regular and established places of business in this district, and has committed acts of infringement in this district.

9. Verizon offers wireless coverage in the Eastern District of Virginia. It also operates stores in this district which are regular and established places of business. The website of Verizon lists 11 stores within 25 miles of Richmond, Virginia.

10. Upon information and belief, many companies and individuals with headquarters and other significant operations within the Eastern District of Virginia have purchased, licensed, or otherwise contracted to use Verizon's wireless communications products and services.

D. Factual Background

a. Overview of the Systems and Methods of the Patents-in-Suit

11. The Patents-in-Suit are directed to electronic mail systems with RF communications to mobile processors and related methods of operation. The systems of the Patents-in-Suit integrate electronic mail systems with RF wireless communications networks. The inventions enable, for example, a message originating in an electronic mail system to be transmitted not only by wireline but also via RF, in which case it is received by a user and stored in his mobile RF receiver.

12. Some claims of the Patents-in-Suit relate to a system for transmitting originated information from one of a plurality of originating processors in an electronic mail system to at least one of a plurality of destination processors in the electronic mail system or another electronic mail system. The system includes a RF information transmission network for transmitting the originated information to at least one RF receiver which transfers the originated

information to the one destination processor, at least one interface which connects the electronic mail system to the RF transmission network and transmits originated information received from the electronic mail system to the RF information transmission network. The originated information is transmitted to a receiving interface by the electronic mail system in response to an address of the receiving interface, and the originated information is transmitted from this receiving interface to the RF information transmission network with an address of the destination processor to receive the information. The electronic mail system can also transmit other originated information within the electronic mail system through a wireline such as the telephone network.

13. Some claims of the Patents-in-Suit relate to a system for transmitting originated information from one of a plurality of originating processors in an electronic mail system to at least one of a plurality of destination processors in an electronic mail system or another electronic mail system. The system includes a RF information transmission network for transmitting the originated information to at least one RF receiver which transfers the originated information to the one destination processor; at least one interface which is coupled to the electronic mail system containing the plurality of originating processors and to the RF information transmission network. The interface transmits the originated information received from the electronic mail system containing the plurality of originating processors to the RF information transmission network. The system further includes at least one additional processor which is coupled to at least one interface and which transmits other originated information to the interface. The interface receives the other originated information from the one additional processor and adds RF network information used by the RF information transmission network

during transmission of the other originated information to the one RF receiver receiving the other originated information.

14. Some claims of the Patents-in-Suit relate to a system for connecting a plurality of email systems each of which transmits information from one of a plurality of originating processors to at least one of a plurality of destination processors. The system includes at least one interface which is coupled to each of the plurality of electronic mail systems and which receives information originating from an originating processor in one of the electronic mail systems for transmission to a destination processor in another electronic mail system. The system also includes a RF information transmission network, coupled to the interface, for transmitting stored information received from the interface which originated from an originating processor in one electronic mail system by RF transmission to at least one RF receiver which then relays the information to a destination processor within another electronic mail system.

15. The first Patent-in-Suit, the '960 Patent, was duly and legally issued on July 25, 1995.

16. The second Patent-in-Suit, the '611 Patent, was duly and legally issued on August 1, 1995.

17. The third Patent-in-Suit, the '670 Patent, was duly and legally issued on April 29, 1997.

18. The fourth Patent-in-Suit, the '172 Patent, was duly and legally issued on October 6, 1998.

19. The fifth Patent-in-Suit, the '451 Patent, was duly and legally issued on May 23, 2000.

20. The sixth Patent-in-Suit, the '592 Patent, was duly and legally issued on November 13, 2001.

21. The seventh Patent-in-Suit, the '472 Patent, was duly and legally issued on December 26, 1995.

22. The eighth Patent-in-Suit, the '946 Patent, was duly and legally issued on May 20, 1997.

23. Plaintiff NTP is the assignee of all right, title and interest in and to the Patents-in-Suit and has the legal right to enforce the Patents-in-Suit against the Defendant in this case.

b. Prior Litigation Involving the Patents-in-Suit

24. Five of the Patents-in-Suit were the subject of prior litigation in this Court in a patent infringement action filed by NTP against Research In Motion, Ltd. on November 13, 2001, Civil Action No. 3:01-CV-767 (the "RIM Action").

25. In the course of the RIM Action, RIM extensively litigated the validity and enforceability of the five patents at issue, as well as the issue of RIM's infringement. The issues of infringement and validity were tried in a thirteen-day jury trial in November 2002 before the Honorable James R. Spencer, District Judge.

26. The jury returned a verdict finding that RIM willfully infringed all of the claims of the patents that were asserted at trial. The jury found that all of the asserted claims were valid and the claims were not anticipated or rendered obvious under §§ 102 and/or 103 of the Patent Act. The claims at issue at trial were: claims 15, 32 and 34 of the '960 Patent, claim 8 of the '670 Patent, claim 199 of the '172 Patent, claims 28, 248, 309, 313 and 317 of the '451 Patent and claims 40, 278, 287 and 654 of the '592 Patent.

27. Following the jury verdict, RIM moved the Court for JMOL or, in the alternative, for a new trial. The trial court denied both motions by Order dated May 23, 2003.

28. RIM appealed the judgment to the United States Court of Appeals for the Federal Circuit. The Federal Circuit concluded that the District Court correctly found infringement and

correctly denied RIM's motion for JMOL. The Federal Circuit also affirmed the district court's denial of RIM's motion for JMOL on the validity issues.

29. On September 20, 2006, Oren Tavory filed a Complaint against NTP, Inc., styled *Oren Tavory v. NTP, Inc.*, Civil Action No. 3:06-CV-628 (E.D. Va.), seeking to be named as a co-inventor of seven of the eight Patents-in-Suit, and asserting claims for copyright infringement and unjust enrichment. The action was transferred to the Richmond Division and assigned to the Honorable James R. Spencer, District Judge. The Court dismissed the unjust enrichment claim on December 26, 2006, and granted NTP's motion for summary judgment dismissing the remaining claims on July 17, 2007.

30. Currently pending before this Court is a patent infringement action filed by NTP against Palm, Inc. ("Palm") on November 6, 2006, Civil Action No. 3:06-CV-836, involving seven of the same Patents-in-Suit. This action has been stayed pending completion of the PTO reexamination proceedings.

c. Reexamination of the Patents-in-Suit

31. After the jury verdict in the RIM action, the United States Patent and Trademark Office ("PTO") initiated reexamination of the '670, '172, '451, '592, '472 and '946 Patents in December 2002, and granted RIM's petitions for reexamination of the '960 and '611 Patents in April 2003 and September 2003 respectively. RIM subsequently filed requests for reexamination of the other Patents-in-Suit. The PTO rejected all the claims of the Patents-in-Suit. NTP has filed responses and appeals to these findings, and the reexamination proceeding remains pending before the PTO.

E. Defendant's Products, Services, Systems and Processes Infringe NTP's Patents

32. Defendant markets, makes, uses, imports, sells and/or offers for sale products and related software applications and services that directly infringe, contributorily infringe and/or induce others to infringe or are used to practice processes that infringe, one or more claims of the Patents-in-Suit. The infringing Verizon products and services include, for example, its line of handheld devices, organizers, PDAs, cell phones, and smartphones, together with related software applications and wireless data services, that are capable of sending and receiving email messages, and its wireless service that utilizes a RF information transmission network to provide service for products manufactured by other entities.

33. Verizon provides certain handheld devices, organizers, PDAs, cell phones, and smartphones, which it offers for sale and sells in conjunction with related software applications and wireless data services that together constitute electronic mail systems with RF communications capabilities to mobile processors in accordance with the patent claims. A Verizon Mobile Email brochure shows users how to download and use the mobile email program in the cell phone, and the smartphone devices are pre-configured for email. The devices can transmit and receive RF signals, as each has an RF transmitter and receiver. The devices enable a user to connect with people by voice or via email, and enable a user to send and receive email from corporate and personal email accounts.

34. The devices can serve as an originating processor by transmitting originated information via the electronic mail system to at least one destination processor. The devices can also serve as a destination processor by receiving transmitted originated information via the electronic mail system from an originating processor.

35. Verizon provides wireless service for transmitting originated information via the electronic mail system to devices manufactured and sold by other entities. Verizon is a wireless service provider that utilizes a RF information transmission network to provide service.

36. Upon information and belief, Verizon utilizes email gateways for storing and forwarding email traffic to and from its networks, and utilizes an interface switch to connect the wired network with the wireless network. For example, an email gateway can look up the address of the interface, and append that address so as to forward the message to the interface. Similarly, the interface can look up the address of the destination device and then forward the message to that address over the RF network.

37. Verizon indirectly infringes one or more of the claims of the Patents-in-Suit by inducing others to make, use, sell, offer for sale and/or import into the United States for subsequent use or sale products, methods, processes, services and/or systems that directly infringe one or more claims of the Patents-in-Suit by, for example, providing wireless communications services for products manufactured by other entities. For example, Verizon offers for sale on its website Palm Treo and Motorola Q™ Black devices for use with its wireless network.

38. Verizon's handheld devices together with associated email applications and wireless data services that are offered for sale and sold by Verizon in conjunction with the devices constitute an electronic mail system in accordance with the patent claims. When the email application is installed on the device, and the user has subscribed to email services from Verizon, the device can serve as an originating processor by transmitting originated information via this electronic mail system, and can also serve as a destination processor by receiving originated information via the same electronic mail system.

39. Additionally, Verizon indirectly infringes one or more of the claims of the Patents-in-Suit by offering to sell, selling or importing into the United States one or more components of the patented systems, or components for use in practicing the patented processes, knowing such components to be especially made or especially adapted for use in a system or method that infringes the claims of the Patents-in-Suit, and that such components are not a staple article or commodity of commerce suitable for substantial noninfringing use. Verizon provides the wireless service that utilizes an RF information transmission network to provide service for products manufactured by other entities, knowing that the same will be components incorporated into electronic mail systems that infringe the claims of the Patents-in-Suit once users of the wireless service use it with handheld devices.

40. That several manufacturers of devices used in conjunction with Verizon's systems have licensed the Patents-in-Suit provides further evidence that Verizon infringes the Patents-in-Suit. In particular, Good Technology, Inc., and Nokia ("Licensees") are each licensed under the Patents-in-Suit. Mobile messaging provider Good Technology, Inc.'s Motorola-based devices are licensed under the Patents-in-Suit and are sold to customers by, among others, Verizon. Nokia provides Intellisync software that is used by Verizon's Wireless Sync "always on" email service. Upon information and belief, Defendant is aware that its sale and offering for sale of products and services compatible with these licensed products is covered by NTP's patents. However, Defendant, in reckless disregard of those rights, continues its infringing activities.

41. On or about January 21, 1999, NTP's legal representative sent a letter to James R. Young, Executive Vice President and General Counsel of the Bell Atlantic Corporation ("Bell Atlantic"), the predecessor of Verizon Communications, informing it that NTP was the assignee of the '960 Patent, the '611 Patent, the '670 Patent, the '172 Patent, the '472 Patent, and the '946

Patent, as well as of a pending application, and enclosing copies of such patents. NTP also informed Bell Atlantic of NTP's contention that certain of Bell Atlantic's products required a license to the NTP Patents.

42. On or about September 1, 1999, NTP's legal representative sent a letter to Mr. Young at Bell Atlantic, following up on the first letter and seeking a response.

43. On or about July 17, 2000, NTP's legal representative sent a letter to Mr. Young of Bell Atlantic informing Bell Atlantic of the issuance to NTP of the '451 Patent and reiterating NTP's offer to license Bell Atlantic.

44. On or about July 31, 2000, Adam T. Bernstein, counsel for Verizon Communications, wrote NTP's counsel to state that he had been referred the correspondence to Mr. Young of Bell Atlantic, and that future correspondence should be directed to him.

45. Verizon therefore has had actual knowledge of the Patents-in-Suit since no later than the date its predecessor received the January 21, 1999 letter from NTP.

46. In addition, Verizon has had actual knowledge of the Patents-in-Suit since no later than 2002 when it began offering the America's Choice plan with "always on" e-mail capabilities.

47. Defendant has continued to infringe the Patents-in-Suit, despite having knowledge of the Patents-in-Suit and in reckless disregard for NTP's patent rights. On information and belief, Defendant has direct knowledge from press reports and independent investigation of the merits underlying NTP's patent rights from its knowledge of the disposition of NTP's patent infringement suit against RIM. Further, Defendant is aware of the status of the pending reexaminations as such information is publicly available. Defendant is aware that the Campana Patents are presumed valid and remain enforceable during the pendency of the reexaminations,

and, on information and belief, it is aware through published press reports that the reexaminations were instituted because of political pressure and are without merit. Verizon's continued infringement with its present knowledge of NTP's patent rights and their relevance to Defendant's operations is reckless and willful.

48. NTP has been irreparably harmed by Defendant's infringement of its valuable patent rights. Moreover, Defendant's unauthorized, infringing use of NTP's patented systems and methods has threatened the value of this intellectual property because Defendant's conduct results in NTP's loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing the patented inventions.

49. Defendant's disregard for NTP's property rights similarly threatens NTP's relationships with its licensees and potential licensees of this intellectual property. Defendant will derive a competitive advantage over any of NTP's existing and future licensee's from using NTP's patented technology without paying compensation for such use. Accordingly, unless and until Defendant's continued acts of infringement are enjoined, NTP will suffer further irreparable harm for which there is no adequate remedy at law.

COUNT I

(Infringement of United States Patent No. 5,436,960)

50. Paragraphs 1-49 are incorporated by reference as if fully restated herein.

51. Plaintiff NTP is the assignee and lawful owner of all right, title and interest in and to the '960 Patent.

52. Defendant makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes, or which employ systems, components and/or steps that make use of systems or processes that infringe one or more claims of the '960 Patent directly or by induced or contributory infringement.

53. Defendant has been and continues to infringe one or more claims of the '960 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

54. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT II

(Infringement of United States Patent No. 5,438,611)

55. Paragraphs 1-54 are incorporated by reference as if fully restated herein.

56. Plaintiff NTP is the assignee and lawful owner of all right, title and interest in and to the '611 Patent.

57. Defendant makes, uses, sells and offers to sell, and/or imports into the United States for subsequent sale or use products, services, methods or processes that infringe, or which employ systems components and/or steps that make use of systems or processors that infringe, directly and/or indirectly one or more claims of the '611 Patent directly or indirectly by induced or contributory infringement.

58. Defendant has been and continues to infringe one or more claims of the '611 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

59. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT III

(Infringement of United States Patent No. 5,625,670)

60. Paragraphs 1-59 are incorporated by reference as if fully restated herein.

61. Plaintiff NTP is the assignee and lawful owner of all right, title and interest in and to the '670 Patent.

62. Defendant makes, uses, sells and offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that infringe, or which employ systems, components and/or steps that make use of systems or processes that infringe one or more of the claims of the '670 Patent directly or indirectly by induced or contributory infringement.

63. Defendant has been and continues to infringe one or more of the claims '670 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions. NTP is entitled to recover damages adequate to compensate for the infringement.

64. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT IV

(Infringement of United States Patent No. 5,819,172)

65. Paragraphs 1-64 are incorporated by reference as if fully restated herein.

66. Plaintiff NTP is the assignee and lawful owner of all right, title and interest in and to the '172 Patent.

67. Defendant makes, uses, sells, and offers to sell and/or imports into the United States for subsequent sale or use, products, services, methods or processes that infringe, or which employ systems, components and/or steps that make use of systems or processes that infringe one or more of the claims of the '172 Patent directly or indirectly by induced or contributory infringement.

68. Defendant has been and continues to infringe one or more of the claims of the '172 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sale and importing the patent inventions.

69. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT V

(Infringement of United States Patent No. 6,067,451)

70. Paragraphs 1-69 are incorporated by reference as if fully restated herein.

71. Plaintiff NTP is the assignee and lawful owner of all right, title and interest in and to the '451 Patent.

72. Defendant makes, uses, sells and offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that infringe, or which employ systems, components, and/or steps that make use of systems or processes that infringe, directly and/or indirectly, one or more of the claims of the '451 Patent directly or indirectly by induced or contributory infringement.

73. Defendant has been and continues to infringe one or more of the claims of the '451 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

74. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT VI

(Infringement of United States Patent No. 6,317,592)

75. Paragraphs 1-74 are incorporated by reference as if fully restated herein.

76. Plaintiff NTP is the assignee and lawful owner of all right, title and interest in and to the '592 Patent.

77. Defendant makes, uses, sells, and offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that infringe, or which employ systems, components and/or steps that make use of systems or processes that infringe one or more of the claims of the '592 Patent directly or indirectly by induced or contributory infringement.

78. Defendant has been and continues to infringe one or more of the claims of the '592 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

79. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT VII

(Infringement of United States Patent No. 5,479,472)

80. Paragraphs 1-79 are incorporated by reference as if fully restated herein.

81. Plaintiff NTP is the assignee and lawful owner of all right, title, and interest in and to the '472 Patent.

82. Defendant makes, uses, sells, and offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that infringe, or which employ systems, components and/or steps that make use of systems or processes that infringe one or more claims of the '472 Patent directly or indirectly by induced or contributory infringement.

83. Defendant has been and continues to infringe one or more of the claims of the '472 Patent through the aforesaid act, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented invention.

84. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

COUNT VIII

(Infringement of United States Patent No. 5,631,946)

85. Paragraphs 1-84 are incorporated by reference as if fully restated herein.

86. Plaintiff NTP is the assignee and lawful owner of all right, title, and interest in and to the '946 Patent.

87. Defendant makes, uses, sells, and offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that infringe, or which

employ systems, components and/or steps that make use of systems or processes that infringe one or more claims of the '946 Patent directly or indirectly by induced or contributory infringement.

88. Defendant has been and continues to infringe one or more of the claims of the '946 Patent through the aforesaid act, and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused NTP to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented invention.

89. NTP is entitled to recover damages adequate to compensate for the infringement and enhanced damages due to Defendant's willful infringement.

PRAYER FOR RELIEF

WHEREFORE, NTP prays for judgment against Defendant, and that this Court grant NTP the following relief:

A. Adjudging and decreeing that the '960 Patent is valid and enforceable against Defendant, that the '611 Patent is valid and enforceable against Defendant, that the '670 Patent is valid and enforceable against Defendant, that the '172 Patent is valid and enforceable against Defendant, that the '592 Patent is valid and enforceable against Defendant, that the '451 Patent is valid and enforceable against Defendant, that the '472 Patent is valid and enforceable against the Defendant, and that the '946 Patent is valid and enforceable against the Defendant;

B. Adjudging and decreeing that Defendant has infringed, directly and indirectly, the '960 Patent, the '611 Patent, the '670 Patent, the '172 Patent, the '592 Patent, the '451 Patent, the '472 Patent and the '946 Patent;

C. Permanently enjoining Defendant, and its parents, subsidiaries, affiliates, successors and assigns, and each of its officers, directors, employees, representatives, agents and attorneys, and all persons acting in concert or active participation with or on its behalf, or within its control, from making, using, selling, offering to sell, importing, or advertising products and/or services and/or employing systems, hardware, software and/or components and/or making use of such systems or processes that infringe any of the claims of the Patents-in-Suit, or otherwise engaging in acts of infringement of the Patents-in-Suit, all as alleged herein, or alternatively if no injunction is awarded, awarding treble the royalty awarded to NTP at trial for any infringement continuing past the date of verdict until the expiration of the latest patent found to be infringed;

D. Ordering an accounting, including a post-verdict accounting, to determine the damages to be awarded to NTP as a result of Defendant's infringement;

E. Pursuant to 35 U.S.C. § 284, entering an award to NTP of such damages as it shall prove at trial against Defendant that are adequate to compensate NTP for said infringement, said damages to be no less than a reasonable royalty together with interest and costs;

F. Assessing pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;

G. Declaring this case to be exceptional and direct Defendant to pay NTP's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285;

H. Adjudging the infringement to be willful and awarding enhanced damages and attorneys' fees due to Defendant's willful infringement; and

I. Granting to NTP such other, further, and different relief as may be just and proper.

JURY DEMAND

NTP demands a trial by jury of all matters to which it is entitled to trial by jury.

Dated: September 7, 2007

Respectfully submitted,
NTP, INC.
By Counsel

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